



Fact Sheet

Public Comment Period Begins On Proposed Emergency Curtailment Regulations to Protect Water Rights

The State Water Resources Control Board (State Water Board) has released for public comment proposed emergency regulations that would ensure timely compliance with orders to stop diverting water to prevent harm to senior water rights holders. These regulations will not affect water right holders who have already complied with requests issued by the State Water Board to stop diverting water.

The Board will consider the proposed emergency regulations for adoption at its [July 1](#) Board meeting.

As the demand for water exceeds the available supply in this third year of drought, junior water right holders are being ordered to curtail their diversions from the state's rivers and tributaries so that more senior water rights holders have sufficient water to meet their needs, in accordance with State law.

Under the proposed regulations, the Board would adopt a more efficient, real-time process for enforcing ongoing curtailments. Rather than a curtailment notice, the regulations would allow the board to issue an enforceable curtailment order to limit or stop diversions and require reports to ensure compliance. Without the regulatory action, diverters could potentially delay compliance through procedural measures well into the dry season, or until no water remains.

The [proposed regulations](#) were developed following passage of legislation [signed](#) by Governor Brown that expanded regulatory and enforcement powers during the drought emergency. It is responsive to direction by the Board, following a May 21 Board workshop where options for implementing curtailments and providing greater certainty to senior water rights holders were discussed.

With more than 7,910 curtailment notices issued so far this year, the Board must move quickly to enforce these water diversion restrictions or risk losing the ability to effectively manage the scarce water supply and prevent harm to senior water rights. Delays in enforcing curtailment orders also could mean that more curtailment orders than necessary would be needed to retain enough water in the system to protect senior water rights.



The proposed regulations will continue to recognize and respect local cooperative agreements among water right holders in their respective watersheds in an effort to share available water and avoid curtailment. The agreements must not result in injury to senior water rights holders or unreasonably harm fish and wildlife.

When there is not enough water to meet all water rights holders' needs, State law requires that junior water rights holders stop diverting water so that there is water available to more senior water-rights holders: those with rights dating to before 1914 (pre-1914) and those on riparian land directly abutting a waterway. Diverting water when it is not available under a specific water right priority violates State law.

This emergency regulatory package would allow the State Water Board to act quickly, while preserving the right of appeal by water rights holders who are ordered to curtail.

The proposed emergency regulations will have ***no new effect*** on water right holders that have already acted to stop their diversion and report on their compliance in response to a notice of curtailment issued by the State Water Board.

Input Requested on Health and Safety Exemptions

The Board is also asking for input on the whether a limited set of health and safety exemptions to the water rights system are needed. The exemptions are being considered in anticipation of expected requests for critical domestic supply and sanitation needs, and unintended health and safety consequences stemming from lack of water for fighting fires, electric grid reliability, or air quality health impacts during pervasive drought conditions.

Regulations establishing emergency minimum fish flows in three tributaries, approved on June 4th, include an approach to ensure that minimum health and safety needs are addressed. The Board is specifically asking interested parties to comment on whether this approach should be applied more broadly, or if there are there alternative approaches to meeting this need.

In April, the State Water Board launched a web page to assist water right holders in several important watersheds to plan for possible limits on water supply availability. The web page, titled "[Watershed Analysis](#)," details projected water supply, demand and availability for the watersheds most likely to face restrictions during the drought as demand outstrips available water supply.

A [Curtailment Fact Sheet](#) provides additional details on the curtailment process. Please visit our [curtailment notification website](#) to see what watersheds have received curtailment letters.

(This fact sheet was last updated June 20, 2014.)